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IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF OREGON

PORTLAND DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

JOHNSON CRUSHERS
INTERNATIONAL, INC.,

Defendant.

CV '11 - 1413 - SI
Civil Action No.

**STIPULATION OF SETTLEMENT
AND JUDGMENT**

1. *WHEREAS* the United States of America, acting at the request of the Administrator of the United States Environmental Protection Agency (“EPA”), commenced this action by filing a Complaint for Civil Penalties (“Complaint”) on November 22, 2011, alleging violations by Johnson Crushers International, Inc. (the “Defendant”) of the Clean Air Act, 42 U.S.C. § 7413, arising out of Defendant’s operations at the Johnson Crushers International, Inc. manufacturing plant in Eugene, Oregon between March 15, 2004 and January 12, 2009;

2. *WHEREAS*, on March 15, 2007, EPA advised Lane County Regional Air Protection Agency (LRAPA) that Defendant exceeded the major source threshold for Hazardous Air Pollutants (HAPs) in 2004 and 2005, and LRAPA requested that Defendant submit a Title V permit application including accurate data for HAPs in 2006 on March 22, 2007;

3. *WHEREAS* LRAPA issued JCI a Notice of Non-Compliance for failure to obtain a permit, failure to conduct monitoring and reporting, and failure to comply with the 4M NESHAP on May 18, 2007, followed by a subsequent Notice of Non-Compliance for violations of the applicable 4M NESHAP emission limitation on April 21, 2008 and LRAPA asserts claims against JCI for civil penalties and Title V fees;

4. *WHEREAS* the Defendant hereby certifies that it has ceased the alleged violations of the Clean Air Act (the “Act”), 42 U.S.C. § 7413, arising out of Defendant’s operations at the Johnson Crushers International, Inc. manufacturing plant in Eugene, Oregon;

5. *WHEREAS* the United States and the Defendant (the “Parties”) agree that it is in the public interest to resolve this matter without litigation and have negotiated this Stipulation of Settlement and Judgment in good faith to avoid expensive and protracted litigation;

6. *NOW THEREFORE*, without adjudication or admission of any issue of fact or law, the Parties, by and through the undersigned, agree and stipulate as follows:

A. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §§ 1331, 1345 and 1355 and 42 U.S.C. § 7413(b). Venue is proper in the District of Oregon pursuant to 42 U.S.C. § 7413(b) and 28 U.S.C. §§ 1391 and 1395, because the Defendant conducts business in, and because the violations occurred in this District.

B. For the purposes of this Stipulation of Settlement and Judgment, or any action to enforce it, the Defendant consents to the Court's jurisdiction over this Stipulation of Settlement and Judgment and any such action over the Defendant and consents to venue in this judicial district.

C. For purposes of this Stipulation of Settlement and Judgment, the Defendant agrees that the Complaint states claims upon which relief may be granted pursuant to the Clean Air Act, 42 U.S.C. § 7413.

D. The obligations of this Stipulation of Settlement and Judgment apply to and are binding upon the United States and upon the Defendant and its successors. Any change in the Defendant's ownership or corporate status shall not alter its obligations hereunder.

E. Within five business days of entry by the Court of this Stipulation of Settlement and Judgment, the Defendant shall pay to the United States via electronic funds transfer ("EFT") a total amount of \$ 175,000, to resolve all claims by EPA and LRAPA. Payments will be made in accordance with instructions provided by the Financial Litigation Unit of the Office of the United States Attorney for the District of Oregon. The EFT documents shall refer to U.S.A.O. file number 2011V00228 and DOJ case number 90-5-2-1-10292. Payments by EFT must be received at the Department of Justice lockbox bank by 4:00 P.M. (Eastern Time) to be credited

on that day. The U.S. Attorney's Office will distribute \$60,000 in funds to LRAPA representing \$27,212 for permitting fees and \$32,788 for penalty claims asserted by LRAPA. Copies of the payment and transmittal documents shall be mailed to:

Chief, Environmental Enforcement Section
Environmental Enforcement Section
Environment & Natural Resources Division
United States Department of Justice
P.O. Box 7611 Ben Franklin Station
Washington, D.C. 20044-7611

and

Neil J. Evans
Assistant United States Attorney
U.S. Attorney's Office
1000 SW Third Avenue, Suite 600
Portland, OR 97204

F. In the event that the Defendant does not comply with the payment obligations of Paragraph E above, the Defendant shall pay a stipulated penalty to the United States in the amount of one thousand dollars (\$1,500) per day for each day that the civil penalty remains unpaid. Stipulated penalties shall be paid in the same manner as that provided for in Paragraph E above for payment of the civil penalty. Further, interest shall accrue on the unpaid balance of civil and/or stipulated penalties in accordance with 28 U.S.C. § 1961 commencing on the date that such penalties are due and continuing until paid. If payment specified in Paragraph E is not made when due, then, in addition to other remedies herein, the United States reserves the right to move this Court to vacate this Stipulation of Settlement and Judgment and reinstate this action.

G. Within ten business days of receipt of all amounts due under this Stipulation of Settlement and Judgment, the United States shall file a notice with the Court that full payment has been made.

H. The Defendant's payment of the funds identified in Paragraph E above and any stipulated penalties and interest required by Paragraph F above shall constitute a complete settlement and shall be in full satisfaction of the United States' claims regarding the violations of the Clean Air Act alleged in the Complaint through the date of lodging. This Stipulation of Settlement and Judgment is limited to the civil claims under the Clean Air Act that are expressly alleged in the Complaint. This Stipulation of Settlement and Judgment is not intended to, nor shall it be construed to, operate in any way to resolve any civil claims other than those expressly alleged in the Complaint or any criminal liability of the Defendant. Defendant represents that it has reached a separate agreement with LRAPA on all claims of LRAPA.

I. Nothing in this Stipulation of Settlement and Judgment shall be construed to release the Defendant or its agents, successors, or assigns from their respective obligations to comply with any applicable Federal, State, or local law, regulation, or permit. Nothing contained herein shall be construed to prevent or limit the United States' rights to obtain penalties or injunctive relief under the Clean Air Act, 42 U.S.C. § 7413, or any other law for other alleged violations.

J. Civil penalties and any stipulated penalties paid pursuant to this Stipulation of Settlement and Judgment are not deductible by the Defendant or any other person for federal, state, or local tax purposes.

K. The Defendant consents to the entry of this Stipulation of Settlement and Judgment without further notice and agrees not to withdraw from or oppose its entry by the Court or to

challenge any provision herein, unless the United States has notified the Defendant in writing that it no longer supports entry of this Stipulation of Settlement and Judgment.

L. The Court shall retain jurisdiction for the purposes of interpreting and enforcing this Stipulation of Settlement and Judgment through the date that payment is made in accordance with the provisions herein.

M. This Stipulation of Settlement and Judgment shall be considered an enforceable judgment solely for purposes of post-judgment collection of any unpaid civil and/or stipulated penalties and interest referred to in Paragraphs E and F above, in accordance with Rule 69 of the Federal Rules of Civil Procedure; the Federal Debt Collection Procedures Act, 28 U.S.C. §§ 3001 *et seq.*; and any other applicable statutory authority without further order of this Court. In the event all or any portion of the civil penalty amount referred to in Paragraph E above is not paid in accordance with the provisions of this Stipulation of Settlement and Judgment, the Defendant shall be liable for attorneys' fees and costs incurred by the United States in collecting any amounts due thereunder.

N. Nothing in this Stipulation of Settlement and Judgment creates, nor shall it be construed as creating, any rights or claims in favor of any person not a Party to this Stipulation of Settlement and Judgment of Settlement.

O. Except as to those civil claims expressly alleged in the Complaint and resolved in this Stipulation of Settlement and Judgment, in any subsequent administrative or judicial proceeding initiated by the United States for injunctive relief, civil penalties or other appropriate relief relating to the Johnson Crushers International, Inc. manufacturing plant in Eugene, Oregon, the Defendant shall not assert, and may not maintain, any defense or claim based upon the principles of waiver, res judicata, collateral estoppel, issue preclusion, claim-splitting, or other defenses

based upon any contention that the claims raised by the United States in the subsequent proceeding were or should have been brought in the instant case.

P. The undersigned representatives of the Defendant, the Assistant Attorney General of the Environment and Natural Resources Division, and the United States Attorney for the District of Oregon certify that each is fully authorized to enter into the terms and conditions of this Stipulation of Settlement and Judgment and to bind legally the party he or she represents to this document.

Q. The Defendant hereby agrees to accept service of the complaint in this matter from the United States by first class mail directed to Per Ramfjord, attorney for the Defendant, (or by hand delivery of the Complaint to his office) and to waive the formal service requirements set forth in Rule 4 of the Federal Rules of Civil Procedure and any applicable local rules of this Court, including, but not limited to, service of a summons with the Complaint.


R. The Defendant consents to the entry of this Stipulation of Settlement and Judgment without further notice.

S. Except as set forth in Paragraph M of this Stipulation of Settlement and Judgment, each party shall bear its own costs and attorneys' fees in this action.

T. There are no separate agreements or understandings with respect to this matter that have not been set forth in this Stipulation of Settlement and Judgment.

U. This Stipulation of Settlement and Judgment may be executed by the Parties in separate counterparts, each of which when so executed and delivered shall be an original, but all such counterparts shall together constitute but one and the same instrument.

AS STIPULATED AND AGREED TO BY THE PARTIES, IT IS SO ORDERED
AND ADJUDGED THIS 28th DAY OF November, 2011.



United States District Judge

FOR THE UNITED STATES:

S. AMANDA MARSHALL
United States Attorney
District of Oregon OSB #95347



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Dated 11.22.11

IGNACIA S. MORENO
Assistant Attorney General
Environment and Natural Resources Division
United States Department of Justice

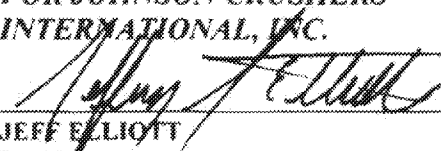
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Attorneys for Plaintiff United States

Dated 11.22.11

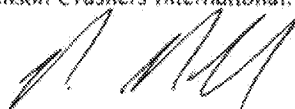
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Seattle, Washington 98101

Dated: 10/6/11



JEFF ELLIOTT
President
Johnson Crushers International, Inc.

Dated: 10/6/11



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